

## CHAPTER 1 ORGANIZATION AND OPERATION

[Prior to 11/19/86, Racing Commission[693]]

[Prior to 11/18/87, Racing and Gaming Division[195]]

[Prior to 8/9/00, see also 491—Chs 6, 20 and 21]

**491—1.1(99D,99F) Function.** The racing and gaming commission was created by Iowa Code chapter 99D and is charged with the administration of the Iowa pari-mutuel wagering Act and excursion boat gambling Act. Iowa Code chapters 99D and 99F mandate that the commission shall have full jurisdiction over and shall supervise all race meetings and gambling operations governed by Iowa Code chapters 99D and 99F.

### **491—1.2(99D,99F) Organization and operations.**

**1.2(1)** The racing and gaming commission is located at 717 E. Court, Suite B, Des Moines, Iowa 50309; telephone (515)281-7352. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday.

**1.2(2)** The racing and gaming commission consists of five members. The membership shall elect a chairperson and vice-chairperson in July of each year. No chairperson shall serve more than two consecutive one-year full terms.

**1.2(3)** The commission meets periodically throughout the year and shall meet in July of each year. Notice of a meeting is published on the commission's Web site at [www3.state.ia.us/irgc/](http://www3.state.ia.us/irgc/) at least five days in advance of the meeting or will be mailed to interested persons upon request. The notice shall contain the specific date, time, and place of the meeting. Agendas are available to any interested persons not less than five days in advance of the meeting. All meetings shall be open to the public unless a closed session is voted by four members or all members present for the reasons specified in Iowa Code section 21.5. The operation of commission meetings shall be governed by the following rules of procedure:

- a.* A quorum shall consist of three members.
- b.* When a quorum is present, a position is carried by an affirmative vote of the majority of the entire membership of the commission.
- c.* Persons wishing to appear before the commission should submit a written request to the commission office not less than ten working days prior to the meeting. The administrator or commission may place a time limit on presentations after taking into consideration the number of presentations requested.
- d.* Special or electronic meetings may be called by the chair only upon a finding of good cause and shall be held in strict accordance with Iowa Code section 21.4 or 21.8.
- e.* The presiding officer may exclude any person from the meeting for behavior that disrupts or obstructs the meeting.
- f.* Cases not covered by this rule shall be governed by the 1990 edition of Robert's Rules of Order Newly Revised.

**491—1.3(99D,99F) Administration of the commission.** The commission shall appoint an administrator for the racing and gaming commission who is responsible for the day-to-day administration of the commission's activities.

**491—1.4(17A,22,99F) Open records.** Except as provided in Iowa Code sections 17A.2(11) "f" and 22.7, all public records of the commission shall be available for public inspection during business hours. Requests to obtain records may be made either by mail, telephone, or in person. Minutes of commission meetings, forms, and other records routinely requested by the public may be obtained without charge or viewed on the commission's Web site. Other records requiring more than ten copies may be obtained upon payment of the actual cost for copying. This charge may be waived by the administrator.

**491—1.5(17A,99D,99F) Forms.** All forms utilized in the conduct of business with the racing and gaming commission shall be available from the commission upon request. These forms include but are not limited to:

**1.5(1) *Racetrack or excursion boat license application.*** This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the facility, and description of proposed operation. The form may include other information the commission deems necessary to make a decision on the license application. The qualified nonprofit corporation and the boat operator, if different than the qualified nonprofit corporation, shall pay a nonrefundable application fee to offset the commission's cost for processing the application in the amount of \$25,000. The fee shall be \$5,000 for each subsequent application involving the same operator and the same qualified sponsoring organization. Additionally, the applicant shall remit an investigative fee of \$15,000 to the department of public safety to do background investigations as required by the commission. The department of public safety shall bill the applicant/licensee for additional fees as appropriate and refund any unused portion of the investigative fee within 90 days after the denial or operation begins.

**1.5(2) *Renewal application for racing license.*** This form shall contain, at a minimum, the full name of the applicant, racing dates, simulcast proposal, feasibility of racing facility, distribution to qualified sponsoring organizations, table of organization, management agreement, articles of incorporation and bylaws, lease agreements, financial statements, information on the gambling treatment program, and description of racetrack operations. The form may include other information the commission deems necessary to make a decision on the license application.

**1.5(3) *Renewal application for excursion boat license.*** This form shall contain, at a minimum, the full name of the applicant, annual fee, distribution to qualified sponsoring organizations, table of organization, internal controls, operating agreement, hours of operation, casino operations, Iowa resources, contracts, guarantee bond, notarized certification of truthfulness, and gambling treatment program. The form may include other information the commission deems necessary to make a decision on the license application. An annual fee to operate an excursion gambling boat shall be based on the passenger-carrying capacity including crew. The fee shall be \$5 per person capacity and accompany this application.

**1.5(4) *Renewal application for racetrack enclosure license.*** This form shall contain, at a minimum, the full name of the applicant, annual fee, casino operations, internal controls, Iowa resources, guarantee bond, and notarized certification of truthfulness. The form may include other information the commission deems necessary to make a decision on the license application. A \$1,000 application fee must accompany this license application.

**1.5(5) *Occupational license application.*** This form shall contain, at a minimum, the applicant's full name, social security number, residence, date of birth, and other personal identifying information that the commission deems necessary. A fee set by the commission shall apply to this application. (Refer to 491—Chapter 6\* for additional information.)

**1.5(6) *Application for season approvals.*** This form shall contain, at a minimum, a listing of the department heads and racing officials, minimum purse, purse supplements for Iowa-breds, grading system (greyhound racing only), schedule and wagering format, equipment, security plan, certification, and any other information the commission deems necessary for approval. This request must be submitted 45 days prior to the meet. Any changes to the items approved by the commission shall be requested in writing by the licensee and subject to the written approval of the administrator or commission representative before the change occurs.

\*See ARC 9948A, IAB 7/12/00, for proposed 491—Chapter 6.

**1.5(7) *Manufacturers and distributors license application.*** This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the applicant, and description of proposed operation. The form may include other information the administrator deems necessary to make a decision on the license application. (Refer to 491—Chapter 22 for additional information.)

**491—1.6(99D,99F) Limitation on location and number of racetracks and excursion gambling boats.**

**1.6(1)** The number of licenses to conduct horse racing shall be one for a racetrack located in Polk County. The number of licenses to conduct dog racing shall be two, one for a racetrack located in Dubuque County and one for a racetrack located in Pottawattamie County. The total number of licenses issued to conduct gambling games on excursion boats shall not exceed ten and shall be restricted to the counties where such boats were operating (or licensed to operate in the future) as of May 1, 1998.

**1.6(2)** Notwithstanding subrule 1.6(1), with the approval of the commission:

- a.* A licensed facility may be sold and a new license may be issued for operation in the same county.
- b.* A licensee may move to a new location within the same county.
- c.* If a license is surrendered, not renewed, or revoked, a new license may be issued for operation in the same county.

**1.6(3)** A licensee seeking an increase in the number of gaming machines or gaming tables must obtain prior approval from the commission. In the request for approval from the commission, a licensee shall demonstrate to the commission's satisfaction that the additional gaming equipment:

- a.* Will have a positive economic impact on the community in which the licensee operates;
- b.* Will benefit the residents of Iowa;
- c.* Will result in increased distributions to qualified organizations entitled to distributions under Iowa Code section 99F.6(4) "a";
- d.* Is necessary to satisfy overall excess demand in the particular market in which the licensee is located;
- e.* Will result in permanent improvements and land-based development in Iowa;
- f.* Is supported within the broader community in which the licensee operates;
- g.* Will not have a detrimental impact on the financial viability of other licensees operating in the market in which the licensee operates;
- h.* Is consistent with legislative intent concerning the purpose of excursion gambling boats or the definition of "racetrack enclosure" and the purpose of gambling games at racetrack enclosures; and
- i.* If for a racetrack enclosure, will benefit the horse or greyhound industries in Iowa.

The various criteria set forth may not have the same importance in each instance, and other factors may present themselves in the consideration of the increase. The criteria are not listed in any order of priority.

In addition to the foregoing criteria, a licensee requesting additional gaming machines shall demonstrate to the commission's satisfaction that the licensee is in compliance with applicable statutes, rules, and orders, has not had any material violation of any statutes, rules, or orders in the previous 12 months, and has taken sufficient steps to address the social and economic burdens of problem gambling.

**491—1.7(99D,99F) Criteria for granting licenses, renewing licenses, and determining race dates.** The commission sets forth the following criteria which the commission will consider when deciding whether to issue a license to conduct racing or gaming in Iowa. The various criteria may not have the same importance in each instance and other factors may present themselves in the consideration of an application or applications for a license. The criteria are not listed in order of priority. After the initial consideration for issuing a license, applicable criteria need only be considered when an applicant has demonstrated a deficiency.

**1.7(1)** Compliance. The commission will consider whether or not the applicant is and has been in compliance with the terms and conditions specified in Iowa Code section 99D.9 or 99F.4.

**1.7(2)** Revenue provided by facility. The commission will consider the amount of revenue to be provided by the proposed facility to the state and local communities through direct taxation on its operation and indirect revenues from tourism, ancillary businesses, creation of new industry, and taxes on employees and patrons.

**1.7(3)** Viability. The commission will consider whether the proposed operation is economically viable and properly financed.

**1.7(4)** Security. The commission will consider whether the proposed operation is planned in a manner that provides adequate security for all aspects of its operation and for the people working at and visiting the facility.

**1.7(5)** Efficient and safe operation. The commission will consider whether the proposed facility is planned in a manner that promotes efficient and safe operation of all aspects of its facility.

**1.7(6)** Efficient, safe, and enjoyable for patrons. The commission will consider whether the proposed facility, including, but not limited to, parking facilities, concessions, the casino/grandstand, access to cashier windows, and restrooms, is planned in a manner that promotes efficient, safe, and enjoyable use by patrons.

**1.7(7)** Compliance with applicable state and local laws. The commission will consider whether the proposed facility is in compliance with applicable state and local laws regarding fire, health, construction, zoning, and other similar matters.

**1.7(8)** Employ appropriate persons. The commission will consider whether the applicant will employ the persons necessary to operate the facility in a manner consistent with the needs, safety, and interests of all persons who will be at the facility.

**1.7(9)** Population. The commission will consider the population of the area to be served by a facility together with location of other facilities of whatever nature within and without the state. The commission may engage an independent firm proficient in market feasibility studies in the industry for specific analysis of any application to determine the potential market of any proposed facility as well as the impact on existing licensees.

**1.7(10)** Community support. The commission will consider support within the community in which a proposed facility is to be located for the promotion and continuation of racing or gaming.

**1.7(11)** Character and reputation. The commission will consider whether there is substantial evidence that the officers, directors, partners, or shareholders of the applicant are not of good repute and moral character. Any evidence concerning an officer's, director's, partner's, or shareholder's current or past conduct, dealings, habits, or associations relevant to that individual's character and reputation may be considered. The commission may consider all relevant facts surrounding alleged criminal or wrongful conduct resulting in the filing of criminal charges, a conviction, nolo contendere, no contest or Alford pleas entered by the applicant or operator in any court or administrative proceedings. A criminal conviction of an individual shall be conclusive evidence that the individual committed the offense for which the individual was convicted, but this does not preclude the commission from considering evidence that the individual committed additional offenses. The commission shall decide what weight and effect evidence about an officer, director, partner, or shareholder should have in the determination of whether there is substantial evidence that the individual is not of good reputation and character. Officers, directors, partners, and shareholders who have a significant interest in the management, ownership, operation, or success of an application may be held to a more stringent standard of conduct and reputation than others with a less significant interest or role in such matters.

**1.7(12)** Nurture the racing industry. The commission will consider whether the proposed race-track operation would serve to nurture, promote, develop, and improve the racing industry in Iowa and provide high quality racing in Iowa.

**1.7(13)** Purses. The commission will consider whether the proposed racetrack operation will maximize purses.

**1.7(14)** Breeders. The commission will consider whether the proposed racetrack operation is beneficial to Iowa breeders.

**1.7(15)** Gaming integrity. The commission will consider whether the proposed operation would ensure that gaming is conducted with a high degree of integrity in Iowa.

**1.7(16)** Economic development. The commission will consider whether the proposed operation will maximize economic development.

**1.7(17)** Tourism. The commission will consider whether the proposed operation is beneficial to Iowa tourism.

**1.7(18)** Employment opportunities. The commission will consider the number and quality of employment opportunities for Iowans the proposed operation will create and promote.

**1.7(19)** Sale of Iowa products. The commission will consider how the proposed operation will promote the development and sale of Iowa products.

**1.7(20)** Shore development. The commission will consider the amount and type of shore developments associated with the proposed excursion gambling boat project.

**1.7(21)** The commission will consider such other factors as may arise in the circumstances presented by a particular application.

These rules are intended to implement Iowa Code chapters 99D and 99F.

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\*\*Effective date of 1.8 delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000.